

Patents

What is a patent?

A patent is a grant from the federal government given to an inventor or a patent owner. The function of a patent is to limit others from “making, using, selling, importing, or offering for sale the inventor’s invention as defined in the claims of the patent.” Patents expire after a fixed period of time measured 20 years from the filing date of the patent application. However, a patent right may be extended or last longer if delays from regulatory review affect the initial application process.

Can patent rights be lost?

Patents may expire prior to the expiration date if the required maintenance fees are not paid.

Are there different types of patents?

Yes. There are three types of patents – utility, design and plant. Utility patents are the most common. Examples include pharmaceuticals, manufactured products, electronic devices, and generally, those inventions created by people. Design patents cover the outward ornamental appearance of a product. Plant patents cover asexually reproducible new varieties of plants.

How do I obtain a patent for my invention?

A person (the inventor) must file a patent application with the United States Patent and Trademark Office (USPTO), where it will be examined to make sure that the invention meets the “novelty” and “nonobviousness” requirements of the patent law. There may be other legal standards to which the invention is judged. Be sure to create records detailing the process by which the invention developed, including the date of invention, the uniqueness of the invention and pertinent disclosure information. Filing the patent application before publicly disclosing information about the invention is important, especially since many foreign countries have laws prohibiting the filing of an application if it was publicly disclosed before the filing date of the USA patent application. Consult the expertise of a trained patent attorney for specific information about the legal process.

What is patent infringement?

Infringement happens when someone other than the owner of the patent “imports, makes, uses, sells, or offers the invention as defined in the claims of the patent for sale” without the permission of the patent owner. Owning a patent gives the patent owners the right to sue those without authorization commit infringement by making, using and selling the invention as defined in the claims of the patent. For example, a patent owner could file suit both for financial damages as well as for a court order to stop the infringer’s misuse.

What kinds of things can be patented?

The invention must be unique, meaning that it must be an invention that previously did not exist before the Date of Invention. Also, the invention must not be obvious to one of ordinary skill in view of preexisting technology. The patent statute specifically states that the following can be patented:

- New and Useful Processes;
- New and Useful Machines;
- New and Useful Manufacture or Compositions of Matter; and
- Any New and Useful Improvement of any of the above.

How do I search patents?

Searching for a registered patent is available at www.uspto.gov

A faster way of searching online is available at: www.google.com/patents

A quick and easy way to print all USA patents is available online at: www.pat2pdf.org

Sources:

www.uspto.gov

Nolo’s Patents for Beginners 5th Ed.

David G. Boutell, esq.

This information is not intended to substitute for legal advice or representation. Talk with an attorney if you have questions about how this information applies to your own situation.

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